

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

JOHN W. FERRON,	:	
	:	
Plaintiff,	:	Civil Action No. 2:06-cv-322
	:	
vs.	:	Judge Frost
	:	
VC E-COMMERCE	:	Magistrate Judge Abel
SOLUTIONS, INC., <i>et al.</i>	:	
	:	
Defendants.	:	

**AFFIDAVIT OF ATTORNEY LISA A. WAFER**

I, Lisa A. Wafer, hereby state under oath as follows:

1. I am over 18 years of age, and am otherwise competent to make this affidavit. The matters set forth below are based upon my own personal knowledge and, if called as a witness, I could and would testify competently thereto. I am providing this Affidavit in connection with the above referenced matter.

2. I am the Trial Attorney for the Plaintiff in the above captioned matter.

3. On August 15, 2006, I served upon Defendants' counsel Plaintiff's Notice to Take Depositions, scheduling the depositions of Defendant OptInRealBig.com, LLC's ("Defendant" or "OptIn") CEO, Scott Richter, and its President, Steve Richter. The deposition notice called for these representatives of OptIn to appear for depositions on October 2, 2006 and October 3, 2006, respectively. A true and correct copy of the August 15, 2006 Notice to Take Depositions is attached hereto at Attachment 2.

4. During the six weeks between the date on which I served Plaintiff's Notice to Take Depositions, August 15, 2006, and the last business day before the scheduled depositions, Friday, September 29, 2006, Defendants' counsel raised absolutely **no** objection to Plaintiff's

Notice to Take Depositions. Nor did Defendants' counsel request that the depositions be rescheduled for another date.

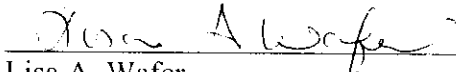
5. Therefore, I reasonably anticipated that the depositions would proceed as noticed, and scheduled a court reporter to transcribe the witnesses' deposition testimony.

6. Then, for its latest discovery stonewalling tactic, Defendants' counsel sent me an email on September 29, 2006 requesting that the properly-noticed depositions be rescheduled. A true and correct copy of the September 29, 2006 email I received from Attorney Marshall in this regard is attached hereto at Attachment 3.

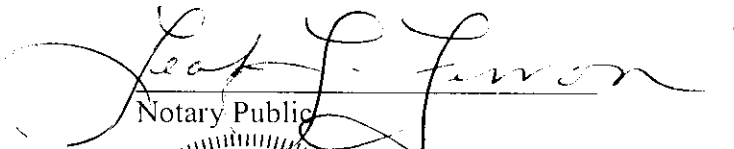
7. However, because Defendants' counsel had previously failed to raise any objection to these properly-noticed depositions, I declined to reschedule the depositions at that late date.

8. On October 2, 2006, Scott Richter failed to appear for his deposition. Likewise, on October 3, 2006, Steve Richter failed to appear for his deposition.

9. Further affiant sayeth naught.

  
Lisa A. Wafer

SWORN AND SUBSCRIBED TO BEFORE ME this 25<sup>th</sup> day of October, 2006.

  
Notary Public



LEAH L. FERRON  
NOTARY PUBLIC  
STATE OF OHIO  
Comm. Expires  
September 16, 2009